

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

WALMART INC. AND WAL-MART
STORES EAST, LP,

Defendant.

Civil Action No. 1:20-cv-01744-CFC

JOINT STIPULATION AND ~~PROPOSED~~ ORDER

WHEREAS, on December 22, 2020, Plaintiff United States of America (“the United States”) filed a 160-page, 710-paragraph Complaint against Walmart Inc. and Wal-Mart Stores East, LP (collectively “the Defendants”), seeking to impose civil penalties and injunctive relief under the Controlled Substances Act (“CSA”);

WHEREAS, (i) the Defendants intend to move to dismiss the complaint, (ii) the United States expects to oppose any such motion, and (iii) the Defendants expect to file a reply brief in response to any opposition filing;

WHEREAS, under Local Rule 7.1.2, “[u]nless otherwise ordered, once a motion has been deemed served, the response thereto shall be filed within 14 days,” and “[o]nce the responsive papers have been deemed served, the moving party may file a reply within 7 days;”

WHEREAS, under Local Rule 7.1.3, “[n]o opening or answering brief shall exceed 20 pages, and no reply brief shall exceed 10 pages, in each instance exclusive of any table of contents or table of citations;”

WHEREAS, under Judge Connolly’s standing order of November 6, 2019, “[f]or each page allowed by local rule, the parties shall use up to 250 words;”

WHEREAS, the parties recognize that this Court’s preference is for parties to comply with the Court’s briefing schedule and word limitations described above;

WHEREAS, the parties have conferred and agreed, subject to approval by the Court, that based on the complexity of the issues raised in the Complaint and their experience briefing complex issues in other matters, an enlargement of the time to submit briefs and of the word limit is appropriate with respect to briefing related to the forthcoming motion to dismiss;

WHEREAS, the Complaint brings several causes of action that incorporate multiple legal theories under the CSA involving Walmart’s role as both an owner of and a distributor to pharmacies, and an enlargement of the word limit for the briefs will allow the parties to fully and efficiently discuss the distinct issues in the forthcoming motion to dismiss, and additional time to prepare those briefs will improve the quality and helpfulness of briefing;

WHEREAS, the Department of Justice is in the process of transition, with several unfilled positions, and providing additional time for briefing will help allow for appropriate Department officials to review the United States' briefs before filing.

WHEREAS, based on good-faith discussions among the parties' counsel, the parties respectfully submit that the briefing schedule and word limits set forth below will allow the parties to prepare the most helpful briefs so as to allow the efficient consideration by this Court of these significant and complex issues.

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, subject to the approval of the Court, as follows:

1. To the extent Defendants move to dismiss the United States' complaint,
 - (a) Defendants shall file a single opening brief in support of their motion that shall not exceed **8,000 words** (exclusive of the cover page, table of contents, table of authorities, and signature block),
 - (b) The United States shall file any answering brief within **60 days** of the Defendants' filing of their opening brief,
 - (c) Any such answering brief shall not exceed **8,000 words** (exclusive of the cover page, table of contents, table of authorities, and signature block),

(d) The Defendants shall file a reply brief in support of their motion within **30 days** of the United States' answering brief,

(e) Any such reply brief shall not exceed **4,000 words** (exclusive of the cover page, table of contents, table of authorities, and signature block).

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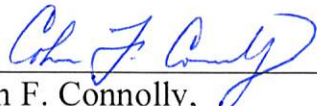
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Dated: February 5, 2021

SO ORDERED this 5th day of February 2021


Colm F. Connolly,
United States District Court Judge